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Message Text

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----------043820 181620Z /46
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FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA

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E.O. 11652: N/A

TAGS: EAIR, CA

SUBJECT: DISCRIMINATORY TREATMENT OF US AIR TAXIS
OPERATING INTO NORTH WEST ONTARIO

1. IN 1970, CANADIAN AIR TRANSPORT COMMITTEE BEGAN TO
MODIFY LICENSES OF NUMEROUS US AIR TAXIS OPERATING
FLOAT PLANES TO NW ONTARIO BY ADDING REQUIREMENTS WHICH
PERMITTED ONLY TWO STOPS IN CANADA: ONE AT A CANADIAN
CUSTOMS POINT OF ENTRY, THE OTHER AT A LICENSED BASE
OF A CANADIAN CHARTER AIR SERVICE. SUBSEQUENTLY
THE REQUIREMENTS WERE CHANGED TO ALLOW DEPLANING
OF PASSENGERS AT ANY RESORT, CAMP OR OUTPOST OPERATED
UNDER LICENSE FROM THE ONTARIO GOVERNMENT. IN
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ADDITION, THE ATC REQUIRED ALL US AIR TAXIS ON FLIGHTS
OUT OF NW ONTARIO TO MAKE AN ADDITIONAL STOP AT
EITHER A CUSTOMS POINT OR A LICENSED BASE FOR
GAME AND FISH INSPECTION BY ONTARIO MINISTRY OF
NATURAL RESOURCES OFFICERS. ON OCT. 17, 1974
EMBASSY OTTAWA SENT DIPLOMATIC NOTE (NO. 218) ARGUING
AGAINST CONTINUING INSPECTION STOPS IN LIGHT OF ARTICLE

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XIV OF THEN NEWLY IMPLEMENTED NONSCHEDULED AIR SERVICE
AGREEMENT. CANADIAN REPLY NOTE OF DEC. 4, 1974
(ECT-1835) SAID THAT STOPS WERE NOT CONTRARY TO
ARTICLE XIV BECAUSE OF THEIR APPLICABILITY TO ALL US

CARRIERS. CANADIAN AIRLINES ARE NOT SUBJECT TO
ANY OF THE ABOVE REQUIREMENTS.

2. SINCE THEN, DEPARTMENT AND CAB HAVE CONTINUED
TO RECEIVE NUMEROUS COMPLAINTS FROM AFFECTED US
OPERATORS REPORTING DIVERSION TO CANADIAN AIRLINES
AND CONSEQUENT COMMERCIAL LOSSES AS A RESULT OF THE
ABOVE DISCRIMINATORY CANADIAN REQUIREMENTS. THESE
COMPLAINTS NOW HAVE BEEN FULLY EVALUATED AND IT
IS CLEAR THAT SINCE THE MANDATORY STOPS AT LICENSED
OUTPOSTS AND ONTARIO INSPECTION STOPS HAVE THE
EFFECT OF DISCRIMINATING AGAINST US AIRLINES VIS-A-VIS
CANADIAN AIRLINES, THE CANADIAN REQUIREMENTS ARE IN
VIOLATION OF ARTICLE XIV. IF CORRECTIVE ACTION IS
NOT FORTHCOMING FROM THE CANADIAN AUTHORITIES,

RECIPROCAL RESTRICTIONS MAY BE IMPOSED BY US
AUTHORITIES UPON CANADIAN OPERATORS TO RESTORE
EQUALITY OF TREATMENT.

3. THE EMBASSY IS REQUESTED TO TRANSMIT TO EXTAFF
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A DIPLOMATIC NOTE ON THE ABOVE ISSUE. TEXT ALONG
FOLLOWING LINES IS SUGGESTED. ". . . AND HAS THE
HONOR TO REFER TO THE UNITED STATES-CANADA NONSCHEDULED
SERVICE AGREEMENT OF MAY 8, 1974. THE CANADIAN
AERONAUTICAL AUTHORITIES PRESENTLY REQUIRE THAT
UNITED STATES FLOAT PLANE OPERATORS CONDUCTING
FLIGHTS TO NORTH WEST ONTARIO DEPLANE PASSENGERS
AT A RESORT, CAMP OR OUTPOST OPERATED BY A PERSON
DULY LICENSED BY THE GOVERNMENT OF THE PROVINCE OF
ONTARIO AND THAT FLIGHTS LEAVING NORTH WEST ONTARIO
MUST STOP AT A CANADIAN CUSTOMS PORT OF ENTRY OR
AT A LICENSED BASE OF A CANADIAN CHARTER AIR CARRIER
WHERE OFFICERS OF THE ONTARIO MINISTRY OF NATURAL
RESOURCES MAY BE AVAILABLE TO MAKE SUCH INSPECTION
AS THEY CONSIDER DESIRABLE. IN ITS NOTE NUMBER 218,
DATED OCTOBER 17, 1974 THE EMBASSY POINTED OUT THAT
THE INSPECTION REQUIREMENT APPEARED TO BE INCONSISTENT
WITH ARTICLE XIV OF THE ABOVE MENTIONED AGREEMENT.
THE DEPARTMENT OF EXTERNAL AFFAIRS' REPLY NOTE,
ECT-1835, DATED DECEMBER 4, 1974 STATED THAT THE
REQUIREMENT WAS NOT CONTRARY TO ARTICLE XIV
BECAUSE ' ... IT WILL APPLY TO ALL US CARRIERS...'

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"IN THE INTERVENING YEARS THE UNITED STATES
AUTHORITIES HAVE CONTINUED TO OBSERVE THE OPERATIONS
INTO NORTH WEST ONTARIO BY US AIR TAXIS. ALL OF
THEM HAVE EXPERIENCED SIGNIFICANT DECREASES IN
THEIR TRAFFIC AND OTHER COMMERCIAL DIFFICULTIES

AS A RESULT OF THESE REQUIREMENTS. THE ADDITIONAL
COST TO THE OPERATOR IN TERMS OF FLIGHT TIME AND FUEL
IS SUBSTANTIAL, ESPECIALLY IN VIEW OF RECENT PRICE
INCREASES IN AVIATION FUEL. IN ADDITION, THE
EXTRA STOP, FOR INSPECTION PURPOSES, POSES A BURDEN
ON THE CONSUMER WHO MUST ENDURE NOT ONLY A LONGER
FLIGHT, BUT AN ADDITIONAL LANDING AND TAKEOFF.
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"CANADIAN OPERATORS, HOWEVER, ARE NOT REQUIRED TO
RESTRICT THEIR DESTINATIONS TO OUTPOSTS OPERATED
BY LICENSED PERSONS NOR TO MAKE AN EXTRA STOP FOR
INSPECTION. THIS HAS ENABLED THEM TO DIVERT AN UNDUE
PORTION OF PASSENGER TRAFFIC FROM THE US AIR TAXI
OPERATORS, PLACING THE LATTER, AS A CLASS, AT A
COMPETITIVE DISADVANTAGE.

"THE ONTARIO INSPECTION REQUIREMENT, AND THE REQUIREMENT
TO DISEMBARK PASSENGERS ONLY AT CERTAIN POINTS, ARE
CLEARLY DISCRIMINATORY AGAINST US AIRLINES VIS-A-VIS
CANADIAN AIRLINES AND ARE IN VIOLATION OF ARTICLE XIV
OF THE AGREEMENT.

"THE EMBASSY OF THE UNITED STATES ACCORDINGLY
REQUESTS THAT IN LIGHT OF ARTICLE XIV OF THE AGREEMENT
THE ABOVE RESTRICTIONS IMPOSED ON US AIRLINES BE
TERMINATED.

"IN THE EVENT THAT THE DISCRIMINATORY RESTRICTIONS
ON US AIRLINES ARE CONTINUED BY THE CANADIAN
AUTHORITIES, IT MAY BE NECESSARY FOR THE UNITED
STATES AUTHORITIES TO CONSIDER ACTIONS CONSISTENT
WITH PARAGRAPH D OF SECTION V OF ANNEX A OF THE
AGREEMENT TO RESTORE EQUALITY OF TREATMENT WITH
REGARD TO TRANSBORDER FLIGHTS BY THE AIRLINES OF
BOTH OUR COUNTRIES.

"IN VIEW OF THE INJUSTICE IN THE PRESENT SITUATION
AND IN THE EXPECTATION THAT THE GOVERNMENT OF
CANADA SHARES A DESIRE TO RESOLVE THIS PROBLEM
THE UNITED STATES GOVERNMENT WOULD APPRECIATE AN
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EARLY RESPONSE."

(COMPLIMENTARY CLOSE) END TEXT. CHRISTOPHER

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